

160.151 Criminal background checks and clear CA/N checks for certified employees, student teachers, and others in private, parochial, and church schools -- New checks permitted every five years -- Fingerprinting -- Disclosure -- Employment of offenders by nonpublic schools -- Forms.

- (1) (a) 1. A private, parochial, or church school that has voluntarily been certified by the Kentucky Board of Education in accordance with KRS 156.160(3) may require a national and state criminal background check and require a clear CA/N check, as defined in KRS 160.380, on all new certified hires in the school and student teachers assigned to the school and may require a new national and state criminal background check and require a clear CA/N check on each certified teacher once every five (5) years of employment.
 2. Certified individuals who were employed in another certified position in a Kentucky school within six (6) months of the date of the hire and who had previously submitted to a national and state criminal background check and were required to have a clear CA/N check for previous employment may be excluded from the initial national or state criminal background checks.
 - (b) The national criminal history background check shall be conducted by the Federal Bureau of Investigation. The state criminal history background check shall be conducted by the Department of Kentucky State Police or the Administrative Office of the Courts.
 - (c) All fingerprints requested under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation by the Department of Kentucky State Police after a state criminal background check has been conducted. Any fee charged by the Department of Kentucky State Police, the Administrative Office of the Courts, or the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (2) (a) If a school requires a criminal background check or requires a clear CA/N check for a new hire, the school shall conspicuously include the following disclosure statement on each application or renewal form provided by the employer to an applicant for a certified position: "STATE LAW AUTHORIZES THIS SCHOOL TO REQUIRE A CRIMINAL HISTORY BACKGROUND CHECK AND A LETTER FROM THE CABINET FOR HEALTH AND FAMILY SERVICES STATING THE APPLICANT IS CLEAR TO HIRE BASED ON NO FINDINGS OF SUBSTANTIATED CHILD ABUSE OR NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD ABUSE AND NEGLECT RECORDS AS A CONDITION OF EMPLOYMENT FOR THIS TYPE OF POSITION."
 - (b) The school or school board may require an adult who is permitted access to school grounds on a regularly scheduled and continuing basis pursuant to a written agreement for the purpose of providing services directly to a student or

students as part of a school-sponsored program or activity, a volunteer, or a visitor to submit to a national criminal history check by the Federal Bureau of Investigation and state criminal history background check by the Department of Kentucky State Police or Administrative Office of the Courts and require a clear CA/N check.

- (c) Any request for records from the Department of Kentucky State Police under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police if required. The results of the state criminal background check and the results of the national criminal history background check, if requested, shall be sent to the hiring superintendent. If a background check of child abuse and neglect records is requested, the person seeking employment shall provide to the hiring superintendent a clear CA/N check.
 - (d) Any fee charged by the Department of Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (3) (a) A nonpublic school voluntarily implementing the provisions of this chapter may choose not to employ any person who is a violent offender as defined by KRS 17.165(2), has been convicted of a sex crime which is classified as a felony as defined by KRS 17.165(1), or has committed a violent crime as defined in KRS 17.165(3) or persons with a substantiated finding of child abuse or neglect in records maintained by the Cabinet for Health and Family Services. A nonpublic school may employ, at its discretion, persons convicted of sex crimes classified as a misdemeanor.
- (b) If a school term has begun and a certified position remains unfilled or if a vacancy occurs during a school term, a nonpublic school implementing this chapter may employ an individual who will have supervisory or disciplinary authority over minors on probationary status pending receipt of a criminal history background check or the receipt of a clear CA/N check, provided by the individual.
 - (c) Employment at a nonpublic school implementing this chapter may be contingent on the receipt of a criminal history background check documenting a record as a violent offender, of a sex crime, or of a violent crime as defined in KRS 17.165 or the receipt of a clear CA/N check, provided by the individual.
 - (d) Nonpublic schools implementing this chapter may terminate probationary employment under this section upon receipt of a criminal history background check documenting a record as a violent offender, of a sex crime, or of a violent crime as defined in KRS 17.165 or the receipt of a clear CA/N check.
- (4) The form for requesting a clear CA/N check shall be made available on the Cabinet for Health and Family Services Web site.

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History: Amended 2019 Ky. Acts ch. 31, sec. 2, effective June 27, 2019. -- Amended 2017 Ky. Acts ch. 115, sec. 2, effective July 1, 2018. -- Amended 2010 Ky. Acts ch.

111, sec. 1, effective July 15, 2010. -- Amended 2007 Ky. Acts ch. 85, sec. 168, effective June 26, 2007. -- Amended 2006 Ky. Acts ch. 182, sec. 17, effective July 12, 2006. -- Created 2002 Ky. Acts ch. 285, sec. 1, effective July 15, 2002.

Legislative Research Commission Note (6/27/2019). Under the authority of KRS 7.136(1), the Reviser of Statutes has relettered the paragraphs in subsection (2) of this statute. No words were changed in this process.